

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN MEDICAL SYSTEMS, INC. and  
LASERSCOPE,

Plaintiffs,

v.

BIOLITEC, INC.

Defendant.

Civil Action No. 3:07-CV-30109-MAP

October 30, 2008

**DECLARATION OF JAMES F. DEDONATO, ESQ.**

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I, James F. DeDonato, declare:

1. I am an attorney with the law firm of McCarter & English, LLP, of Hartford, Connecticut, attorneys of record for biolitec, Inc., the Defendant and Counterclaimant in the action referenced above. I am admitted to practice before the Bars of the States of Connecticut and New York and the United States District Court for the District of Connecticut, and am also admitted *pro hac vice* to practice before the United States District Court for the District of Massachusetts for the action referenced above. I make this Declaration in support of the Motion for Summary Judgment filed by biolitec, Inc., on October 30, 2008. I have personal knowledge of the matters set forth in this Declaration. If called as a witness, I could and would competently testify to these matters.

2. Attached hereto as Exhibit 1 is a true and accurate copy of R.S. Malek and K. Nahen, Photoselective Vaporization of the Prostate: KTP Laser Therapy of Obstructive Benign Prostatic Hyperplasia, 23 AUA Update Series 153, 154 (2004).

3. Attached hereto as Exhibit 2 is a true and accurate copy of a brochure published by biolitec, Inc. describing the accused Evolve™ laser and associated side firing fiber optic.

4. Attached hereto as Exhibit 3 is a true and accurate copy of pages 58-59 and 178-79 from the February 21, 2008 deposition of Kelly Moran (Filed Under Seal).

5. Attached hereto as Exhibit 4 is a true and accurate copy of a biolitec, Inc. web page describing uses of the Evolve™ laser.

6. Attached hereto as Exhibit 5 is a true and accurate copy of pages 41, 43-44, 51, 53-55, and 71-72 from the June 7, 2008 deposition of David S. Turk, M.D. (Filed Under Seal).

7. Attached hereto as Exhibit 6 is a true and accurate copy of page 59 from the June 6, 2008 deposition of Tim A. Sidor, M.D. (Filed Under Seal).

8. Attached hereto as Exhibit 7 is a true and accurate copy of selected pages from a presentation by Mahmood Hai, M.D.

9. Attached hereto as Exhibit 8 is a true and accurate copy of pages 160-62 from the April 17, 2008 deposition of Kenneth Arnold.

10. Attached hereto as Exhibit 9 is a true and accurate copy of a brochure titled "GreenLight PVP, Lasers in Urology", published by Laserscope.

11. Attached hereto as Exhibit 10 is a true and accurate copy of an article by Wendt-Nordahl et al., 980-nm Diode Laser: A Novel laser Technology for Vaporization of the Prostate, European Urology, 2007, 52:1723-28.

12. Attached hereto as Exhibit 11 is a true and accurate copy of pages 102-103 from Applied Laser Medicine (H.-Peter Berlien & Gerhard J. Müller eds., 2003).

13. Attached hereto as Exhibit 12 is a true and accurate copy of R. Steiner, Thermal and Non-Thermal Laser Dissection, End. Surg. 1994, 2: 214-30.

14. Attached hereto as Exhibit 13 is a true and accurate copy of A.E. Te, The Development of Laser Prostatectomy, BJU International 93: 262-65 (2004).

15. Attached hereto as Exhibit 14 is a true and accurate copy of G.M. Hale and M.R. Querry, "Optical constants of water in the 200 nm to 200  $\mu$ m wavelength region", Appl. Opt., 12: 555-63 (1973).

16. Attached hereto as Exhibit 15 is a true and accurate copy of L. Kou et al., "Refractive indices of water and ice in the 0.65  $\mu$ m to 2.5  $\mu$ m spectral range", Appl. Opt., 32:3531-40 (1993).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: \_\_\_\_\_

10/30/08

A handwritten signature in black ink, appearing to read 'J. DeDonato', written over a horizontal line.

James F. DeDonato